

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

\$38,400.00 IN UNITED STATES
CURRENCY;

\$985.00 IN UNITED STATES
CURRENCY;

\$19,743.00 IN UNITED STATES
CURRENCY; AND

ONE 2020 MERCEDES BENZ G WITH
VIN W1NYC7HJ8LX352750,

DEFENDANTS.

Civil Action No.

VERIFIED COMPLAINT FOR FORFEITURE

NOW COMES Plaintiff, United States of America, by Ryan K. Buchanan, United States Attorney, and Norman L. Barnett, Assistant United States Attorney, for the Northern District of Georgia, and shows the Court the following in support of its Verified Complaint for Forfeiture:

NATURE OF THE ACTION

1. This is a civil forfeiture action against the following property (collectively, "Defendant Property") seized by the Department of Homeland

Security – Homeland Security Investigations (“HSI”):

- \$38,400.00 in United States currency seized from Phuc Tam Banh during a traffic stop near Satellite Boulevard in Duluth, Georgia on or about November 16, 2022 (“Defendant Currency I”);
- \$985.00 in United States currency seized during the execution of a state search warrant at 2911 Grey Moss Pass, Duluth, Georgia 30097 (“Subject Residence”) on or about November 16, 2022 (“Defendant Currency II”);
- \$19,743.00 in United States currency seized during the execution of a state search warrant at the Subject Residence on or about November 16, 2022 (“Defendant Currency III”); and
- one 2020 Mercedes Benz G with VIN W1NYC7HJ8LX352750 seized from the Subject Residence on or about November 17, 2022 (“Defendant Mercedes Benz”).

2. Defendant Currency I, II, and III are presently located in a secure account maintained by HSI.

3. The Defendant Mercedes Benz is presently located in a secure location in Gainesville, Georgia.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355.

5. This Court has in rem jurisdiction over the Defendant Property pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts or omissions giving rise to the forfeiture occurred in this district.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(A) because the acts or omissions giving rise to the forfeiture occurred in this district and pursuant to 28 U.S.C. § 1395 because the property is located in this district.

BASIS FOR FORFEITURE

Relevant Statutes

7. The Defendant Property is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) on the grounds that it was furnished or intended to be furnished in exchange for a controlled substance, constitutes proceeds traceable to such an exchange, or was used or intended to be used to facilitate a violation of 21 U.S.C. § 841.

8. The Defendant Property is also subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) on the grounds that it constitutes or was derived from proceeds traceable to a violation of a “specified unlawful activity.”

9. 18 U.S.C. § 1956(c)(7) defines, in relevant part, a “specified unlawful activity” as any act or activity constituting an offense listed in 18 U.S.C. § 1961(1).

10. 18 U.S.C. § 1961(1) includes, as part of the list of offenses, “dealing in a controlled substance or listed chemical.”

Factual Background

Investigation regarding Phuc Tam Banh and Subject Residence

11. On or about February 2, 2022, the United Parcel Service (“UPS”) informed HSI that it intercepted a package containing suspected controlled substances.

12. More specifically, UPS informed HSI that, on or about February 1, 2022, UPS intercepted a parcel addressed to 3815 Lake Lanier Drive, Duluth, Georgia from Tracy, California that contained approximately one kilogram of cocaine laced with fentanyl.

13. HSI began an investigation and identified Phuc Tam Banh as someone associated with the parcel intercepted by UPS that contained cocaine laced with fentanyl addressed to 3815 Lanier Drive, Duluth, Georgia.

14. HSI determined that Phuc Tam Banh was previously convicted of conspiracy to possess with intent to distribute MDMA in the Northern District of Georgia on November 20, 2007.

15. HSI determined that Phuc Tam Banh lived at the Subject Residence.

16. On or about November 11, 2022, a UPS parcel shipped from California was delivered to the Subject Residence.

17. Based on the training and experience of agents involved in this investigation, California is a source state for illegal narcotics.

18. HSI, based on information gathered during their investigation, conducted surveillance at the Subject Residence.

HSI Seized Defendant Currency I from Phuc Tam Banh during a traffic stop

19. On November 16, 2022 at approximately 11:20 a.m., HSI observed a white Lexus leave the Subject Residence.

20. The driver of the white Lexus was later identified as Phuc Tam Banh.

21. Gwinnett County Sherriff's Office Deputy Black observed Phuc Tam Banh fail to stop at a stop sign and conducted a traffic stop on the Lexus.

22. Phuc Tam Banh was the only adult occupant of the Lexus. A minor child was in the backseat.

23. Deputy Black asked Phuc Tam Banh for consent to search the Lexus.

24. Phuc Tam Banh denied consent.

25. Gwinnett County Sherriff's Office Deputy Butler then deployed Cino, a canine certified to detect the odors of marijuana, cocaine, heroin,

methamphetamine, and MDMA, to conduct a free air sniff on the white Lexus.

26. Cino gave a positive alert on the white Lexus.

27. Based on the positive alert, Deputy Black searched the white Lexus and located four bundles of U.S. currency inside a book bag on the front passenger side of the white Lexus.

28. The U.S. currency located in the white Lexus was later identified as Defendant Currency I.

29. Defendant Currency I consisted of 384 \$100.00 bills.

30. HSI seized Defendant Currency I.

31. Phuc Tam Banh agreed to speak with law enforcement officers at the Gwinnett County Sherriff's Office.

32. However, upon arrival at the Gwinnett County Sherriff's Office, Phuc Tam Banh said he wanted to have an attorney present before any questioning.

HSI obtains a search warrant for Subject Residence from the Magistrate Court of Gwinnett County, Georgia

33. HSI continued surveillance at the Subject Residence while Phuc Tam Banh followed law enforcement officers to the Gwinnett County Sherriff's Office.

34. At approximately noon, law enforcement officers observed a white Mercedes SUV in the driveway.

35. The driver of the white Mercedes was later identified as Anna Vo, Phuc Tam Banh's wife.

36. The Mercedes SUV in the driveway was later identified as Defendant Mercedes Benz.

37. Shortly after law enforcement officers observed the Defendant Mercedes Benz, they observed a black Lexus arrive at the Subject Residence.

38. The driver of the black Lexus was later identified as Hoi Tran.

39. Tran walked into the Subject Residence and came out with a black and white department store shopping bag.

40. Tran then left the Subject Residence in the black Lexus.

41. Moments later, Tran returned to the Subject Residence.

42. Tran exited the black Lexus and walked toward the Subject Residence's garage holding the black and white department store shopping bag.

43. Approximately 20 minutes later, law enforcement officers observed a white Honda Accord arrive at Subject Residence.

44. The driver of the white Honda Accord was later identified as Cam Banh.

45. Cam Banh also walked toward the Subject Residence's garage.

46. At approximately 1:55 p.m., law enforcement officers approached the

front door of the Subject Residence to conduct a knock and talk investigation.

47. Law enforcement officers knocked on the door for several minutes without an answer.

48. Law enforcement officers observed individuals in the house.

49. Law enforcement officers also observed what appeared to be a money counter sitting on the kitchen counter.

50. Based on their investigation, law enforcement officers applied for and obtained from the Magistrate Court of Gwinnett County, Georgia a search warrant to search Subject Residence.

Execution of Search Warrant at the Subject Residence

51. At approximately 5:20 p.m., HSI executed a search warrant at the Subject Residence.

52. Law enforcement officers knocked on the front door of Subject Residence multiple times.

53. Vo answered the door.

54. After Vo called for other people to come out, Tran and Cam Banh exited the residence without incident.

55. While searching a bedroom located on the main floor of the house, law enforcement officers observed an empty black and white department store

shopping bag resembling the bag that officers previously observed Tran carrying.

56. Law enforcement officers field tested the bag and confirmed the presence of trace amounts cocaine inside the bag.

57. Law enforcement officers also found plastic wrap in the bedroom's closet.

58. A field test confirmed the presence of trace amounts of cocaine and possible eutylone on the wrapping.

59. Based on the training and experience of law enforcement officers involved in this investigation, eutylone is a Schedule I controlled substance.

60. In the garage of Subject Residence, law enforcement officers found the following items:

- approximately 69.92 kilograms of suspected synthetic marijuana in multiple cardboard boxes,
- glass vials of THC oil,
- dozens of freezer bags that appeared to have been cut open that smelled like raw marijuana, and
- large cardboard boxes, several of which were "double boxed."

61. Based on the training and experience of law enforcement officers involved in this investigation, drug traffickers will double box containers in an

attempt to avoid controlled substances being detected.

62. In the kitchen, of the Subject Residence, law enforcement officers located the following items on the kitchen counter:

- a money counter,
- a receipt for the purchase of a Rolex watch, and
- Cam Banh's purse that contained \$985.00 in U.S. currency.

63. HSI seized the \$985.00 in U.S. Currency.

64. The \$985.00 was later identified as Defendant Currency II.

65. In the upstairs master bedroom closet, law enforcement offers located U.S. currency later identified as Defendant Currency III.

66. An official count later determined that Defendant Currency III totaled \$19,743.00.

67. Defendant Currency III consisted of various denominations of U.S. currency, including:

- 167 \$100.00 bills,
- 10 \$50.00 bills,
- 96 \$20.00 bills,
- 27 \$10.00 bills,
- 45 \$5.00 bills,

- 35 \$2.00 bills, and
- 58 \$1.00 bills.

68. Law enforcement officers observed the following items on a nightstand in the master bedroom:

- a U.S. passport in Vo's name,
- a U.S. passport in Phuc Tam Banh's name, and
- a bag containing marijuana seeds.

69. In the attic of Subject Residence, law enforcement officers located approximately 16.82 kilograms of suspected marijuana concealed in the insulation.

70. HSI returned to the Subject Residence on November 17, 2022 and seized the Defendant Mercedes Benz from the driveway of the Subject Residence.

Administrative Proceedings

71. HSI initiated administrative proceedings against the Defendant Property, among the other items seized by HSI, on or about December 15, 2022.

72. On or about January 13, 2023, HSI received a claim to the following Defendant Property that was filed on behalf of Phuc Tam Banh:

- Defendant Currency I and
- Defendant Currency II.

73. On or about January 23, 2023, HSI received a claim to the 2020 Mercedes Benz G with VIN W1NYC7HJ8LX352750 that was filed on behalf of Cam Banh.

74. Pursuant to 18 U.S.C. § 983(a)(3), HSI referred the matter for judicial forfeiture to the U.S. Attorney's Office for the Northern District of Georgia.

CONCLUSION

75. Based on the forgoing, the Defendant Property is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6) on the grounds that it was furnished or was intended to be furnished in exchange for a controlled substance, that it constitutes proceeds traceable to such an exchange, or that it was used or was intended to be used to facilitate the possession of a controlled substance in violation of 21 U.S.C. § 841.

76. The Defendant Property is also subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C), because it constitutes or was derived from proceeds traceable to a specified unlawful activity, namely the illegal distribution of controlled substances.

WHEREFORE, the United States prays:

- (1) that the Court forfeit the Defendant Property to the United States of America;

- (2) that the Court award Plaintiff the costs of this action; and
- (3) that Plaintiff have such other and further relief as the Court deems just and proper under the facts and circumstances of this case.

This 13th day of April 2023.

Respectfully submitted,

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VERIFICATION OF COMPLAINT FOR FORFEITURE

I, Hieu T. Nguyen, have read the Complaint for Forfeiture in this action and state that its contents are true and correct to the best of my knowledge and belief based upon my personal knowledge of the case and upon information obtained from other law enforcement personnel.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

This 13th day of April 2023.

Hieu Nguyen

SPECIAL AGENT HIEU T. NGUYEN
DEPARTMENT OF HOMELAND SECURITY
HOMELAND SECURITY INVESTIGATIONS